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| 09/909,020      | 07/20/2001  | Nash Nizamuddin      | P70501              | 9104             |

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EXAMINER

MATHEW, FENN C

ART UNIT PAPER NUMBER

3764

DATE MAILED: 09/12/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/909,020

Applicant(s)

NIZAMUDDIN, NASH

Examiner

Fenn C Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-14, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) 7-10, 15, 16, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 11-14, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schutzer (U.S. 4,340,214). Referring to claim 1, Schutzer discloses a pair of shuttles (19), each shuttle including a frame for supporting a foot of a user, and a guiding mechanism (25, 35), a pair of guide rail assemblies (13, 18), each guide rail assembly extending in a direction away from the other in a substantially mirror arrangement from raised proximal upper ends and extending downwardly and rearward to a lower distal end portion (see fig. 2), each of the guiding mechanisms guiding the associated shuttle (col. 3, lines 30-50) in movement along an associated one of the rail assemblies between the proximal and distal end portion whereby alternating reciprocal movement of the shuttles along the associated rail assemblies moves the feet of a user substantially in skating movement (see abstract).

3. Referring to claim 2, Schutzer discloses each rail assembly comprising a pair of parallel spaced rails (see fig. 1) and each guiding mechanism including at least one pair of wheels (42, 43, 44,45) rotatably engaging the rails of the associated rail assembly.

4. Referring to claim 3, Schutzer discloses the device including a return device for biasing the shuttles to an initial starting position spaced towards the proximal end of the associated rail assembly (col. 3, lines 57-63)

5. Referring to claim 4, Schutzer discloses the return device comprising a resiliently extendable spring (see above referenced sections).

6. Referring to claim 5, Schutzer discloses a tensioning mechanism selectively operable (col. 3, lines 45-50) to permit the user to vary resistance to movement of the shuttles.

7. Referring to claim 11, Schutzer discloses a pair of guide rail assemblies (13, 18), each guide rail assembly extending in a direction away from the other in a substantially mirror arrangement from raised proximal upper ends and extending downwardly and rearward to a lower distal end portion (see fig. 2), a pair of shuttles (19), each shuttle including a frame for supporting a foot of a user, and a guiding mechanism (25, 35), whereby alternating reciprocal movement of the shuttles along the associated rail assemblies moves the feet of a user substantially in skating movement (see abstract).

8. Referring to claim 12, Schutzer discloses the device including a return device for biasing the shuttles to an initial starting position spaced towards the proximal end of the associated rail assembly (col. 3, lines 57-63).

9. Referring to claim 13, Schutzer discloses the return device comprising a resiliently extendable spring (see above referenced sections).

10. Referring to claim 14, Schutzer discloses a tensioning mechanism selectively operable (col. 3, lines 45-50) to permit the user to vary resistance to movement of the shuttles.

11. Referring to claim 17, Schutzer discloses a pair of shuttles (19), each shuttle including a frame for supporting a foot of a user, and a guiding mechanism (25, 35), a pair of guide rail assemblies (13, 18), each guide rail assembly extending in a direction away from the other in a substantially mirror arrangement from raised proximal upper ends and extending downwardly and rearward to a lower distal end portion (see fig. 2), each of the guiding mechanisms guiding the associated shuttle (col. 3, lines 30-50) in movement along an associated one of the rail assemblies between the proximal and distal end portion whereby movement of the shuttles along the associated rail assemblies moves the user's feet in simulated skating movement.

12. Referring to claim 18, Schutzer discloses each rail assembly comprising a pair of parallel spaced rails (see fig. 1) which curve downwardly rearward from the proximal end towards the distal end portion, a return device for biasing the shuttles to an initial starting points spaced towards the proximal end of the associated rail assembly, and a tensioning mechanism selectively operable to permit the user to vary resistance to the movement of the shuttles towards the distal end portion.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schutzer in view of Bull (U.S. 5,503,609). Schutzer discloses the claimed invention except for the specific tensioning mechanism. Schutzer discloses the use of tension springs or hydraulic cylinders. Bull teaches an analogous device including a flywheel, drive cables, a tensioning strap, and adjustment mechanism for improved adjustable resistance during skating motion exercises (col. 7, line 35 – col. 8 line 30). It would have been obvious to one having ordinary skill in the art at the time of invention to substitute the flywheel resistance assembly as taught by Bull for the tensioning mechanism taught by Schutzer in order to provide a system that can simulate ice skating requiring a continuous, repetitive smooth flow of energy into the system by outward thrust of a user's legs.

***Allowable Subject Matter***

15. Claims 7-10, 15-16, and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach the above mentioned limitations and further having each of the frames of each shuttle having a proximal support and a distal support with the distal support extending at a height greater than that of the proximal support.

**Conclusion**

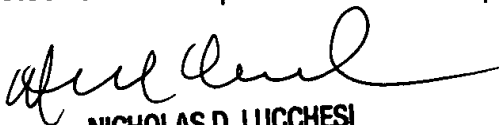
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

|           |                |
|-----------|----------------|
| Little    | U.S. 5,520,598 |
| Chen      | U.S. 5,279,532 |
| Sleamaker | U.S. 5,328,427 |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
NICHOLAS D. LUCCHESI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

*Ycm*  
fcm  
September 5, 2003